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HONOURABLE SRI JUSTICE B.PRAKASH RAO
AND
HONOURABLE SRI JUSTICE RAMESH RANGANATHAN

WRIT APPEAL NO:85 of 2005

DATED: 14-12-2006

Between:
Raj Nath Singh

..... APPELLANT

AND

1. Sri Krishan Singh and 6 others

.....RESPONDENTS

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JUDGMENT: (per The Hon'ble Sri Justice B.Prakash Rao)

Heard both sides.

The appellant who is a third party filed this appeal after obtaining leave, *inter alia,* seeking to assail the orders in allowing the writ petition filed by respondent No.1 herein wherein he sought to declare the impugned proceedings dated 07-07-2000 as illegal and without jurisdiction and for a further direction to revise the seniority by promoting him to the post of Assistant

Commandant/Fire with effect from 29-05-1990 and Deputy Commandant/Fire with effect from 29-05-1996 along with all consequential benefits.

Briefly stated, the grievance of respondent No.1-the writ petitioner was against the seniority vis-à-vis the appellant herein. Admittedly, the appellant has not been impleaded though an attempt has been made to implead, wherein it has been stated that the appellant had received notice and did not appear. However, the fact remains that the said implead petition was not ordered and accordingly, the appellant was not added as a party. However, the learned Single Judge on merits of the case acceded to the contentions urged on behalf of respondent No.1 and allowed the writ petition. Thus, the grievance of the appellant is that he has not been heard nor there was any proper opportunity to canvass his case in proper perspective. Hence, this appeal.

Having heard the learned counsel on both sides and also on perusal of the material on record, we are of the opinion that since admittedly, the appellant is not been made a party though impleading petition was filed and the same had remained unordered and especially having regard to the fact that the dispute is in regard to the seniority between respondent No1. and the appellant herein, it is felt more desirable that an opportunity to be given to canvass the respective claims once again.

The Writ Appeal is accordingly allowed and the order of the learned Single Judge dated 30-08-2004 in W.P.No.24811 of 2000 is set aside. The appellant shall be deemed to be impleaded as respondent No.7 in the writ petition. The office is directed to post the main writ petition itself for final hearing subject to part-heard before the regular Court hearing the matters, immediately after Pongal Vacation, 2007 i.e., on 22-01-2007. However, in the circumstances, without costs.

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B.PRAKASH RAO, J

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RAMESH RANGANATHAN, J

14th December, 2006

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